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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,198	06/27/2003	Hisashi Ohtsuki	Q76328	5820

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SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

EXAMINER

PEAVEY, ENOCH E

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/607,198	Applicant(s) OHTSUKI ET AL.	
	Examiner Enoch E Peavey	Art Unit 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 27 June 2003.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-48 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-48 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>6/27/03 & 8/26/04</u> .	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____.
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DETAILED ACTION

Claim Objections

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 46-46 been renumbered 46-48.

The new claims added in the preliminary amendment are all number 46.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-31 and 33-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Nicot, US Patent No. 5,611,545. Nicot discloses a wheel bearing which comprises an inner member (50), an outer member (51) and a circular row of rolling elements (52) interposed between the inner (50) and outer members (51). There is a sealing device (10) for sealing an annular end space delimited between the inner (50) and outer

members (51). The sealing device comprises first (17) and second (11) annular sealing plates secured respectively to one of the first (50) and second members (51) and the other thereof and disposed in face-to-face relation to each other (FIG. 1).

Each of the first (17) and second (11) annular sealing plates including a cylindrical wall (16 and 12 respectively) and a radial wall assembled together to represent a general L-shaped section (FIG. 1),

The first annular sealing plate (17) being mounted on one of the inner (50) and outer (51) members, which is rotatable relative to the other of the inner (50) and outer (51) members with the radial wall positioned on one side adjacent an exterior of the bearing (see FIG. 1). There is a first elastic member (18) being formed with magnetized portions in (Col. 2, lines 12 and 13), which opposite magnetic poles are formed alternately in a direction circumferentially thereof (FIG. 5);

the cylindrical wall (12) of the second annular sealing plate (11) being spaced a slight radial gap from a free periphery of the radial wall of the first annular sealing plate (17); and the second sealing plate (11) including an elastic sealing member (14), the sealing member being formed integrally with a side sealing lip sliding engageable with an outer peripheral surface of the one of the inner and outer members (FIG. 3), which is rotatable, and adjacent an engagement surface of the first annular sealing plate with one member (FIG. 1). The radial sealing lip (14) of the second sealing plate (110) is inclined so as to extend outwardly of the bearing (FIG. 1). The side sealing lip (14) of the second annular sealing plate (11) is provided at two locations spaced radially (FIG. 1). One of the first and second sealing plates is made of a metallic non-magnetic material (i.e. an alloy col. 2, line 47).

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nicot. Nicot discloses the claimed invention except for the sealing plate being made of a ferrite stainless steel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sealing plate being made of a ferrite stainless steel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Enoch E Peavey whose telephone number is 305 1977.

The examiner can normally be reached on Mon-Fri 8:00 am to 4:30 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on (703) 308- 3179. The fax phone numbers for the organization where this application or proceeding is assigned are 305 3597 for regular communications and 305 3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 1113.

Enoch E Peavey

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November 29, 2004

